

DOCKET NO: 328255US0PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :  
RAINER WALDMANN, ET AL : EXAMINER: BASI  
SERIAL NO: 09/129,758 :  
FILED: AUGUST 5, 1998 : GROUP ART UNIT: 1646  
FOR: MAMMAL NEURONAL ACI :  
SENSING CATIONIC CHANNEL,  
CLONING AND APPLICATIONS  
THEREOF

**RENEWED PETITION FOR STATUS UNDER 37 CFR 1.42**

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Decision mailed April 20, 2011, Applicants again request that the Declaration filed on September 15, 2010 be accepted and the application afforded status under 37 CFR 1.42.

As outlined in the Decision mailed April 20, 2011, on April 14, 2010 the undersigned and Mr. Milef of the PCT Legal Office had a telephone discussion wherein MR. Milef indicated that the USPTO objects to the inventor Declaration filed on Feb 1, 1999 for lack of following the appropriate rules for filing a Declaration with a deceased inventor.

Applicants filed a new Declaration on July 7, 2010 but that was determined by the USPTO to be insufficient so another Declaration was filed on September 15, 2010. The Decision of April 20, 2011 objects to that Declaration because:

- (A) The Declaration contains language other than English;
- (B) The changes of the legal representatives were improperly done; and
- (C) The residency of the legal representatives is alleged to be unclear.

**37 CFR 1.137(B) Petition to Revive**

Regarding (A), the Declaration does contain French in the first column with the corresponding text in English provided in the second column. This is a form that is widely used by the attorneys of record and has been accepted in thousands of patent applications filed in the USPTO. In any case, a certification is attached to this renewed petition that the Declaration form that was sent to the inventors including both English and French is true and accurate translation from French to English.

Regarding (B), there are six inventors listed on the Declaration, each of those inventors and the legal representatives signed those Declarations separately and then collated together to get all of those people in one filing. See MPEP 605.04(a):

An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. >Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration (by combining the signature pages).<

The inventors other than the deceased inventor Guy Champigny signed the Declaration separately and then the legal representatives signed a separate page in September 2010. This is appropriate under the USPTO procedures. The alterations that those legal representatives made to the single page of the Declaration that they signed are initialed and dated. Further, any changes that are not deemed to have been initialed and dated are made adjacent to the inventor's signature and were made at that particular time, i.e., contemporaneous change and signature. Therefore, the alteration was accompanied by the appropriate signature and date as required when the document was changed.

Regarding (C) and the indication of French, it is clear that French means their citizenship as their residence is separately indicated by their respective addresses as opposed

Application No. 09/129,758  
**37 CFR 1.137(B) Petition to Revive**

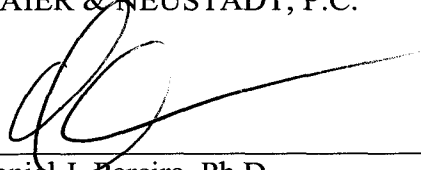
to the term "France" which is a geographical indication of a place, i.e., residency. That is clear from the Declaration.

In view of the foregoing, Applicants request grant of this petition, the status under 37 CFR 1.42.

Should further questions remain, the officer in charge of reviewing this petition is requested to contact the undersigned to resolve the matter expediently.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



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#### CERTIFICATION

This is to certify that the following is, to the best of our  
knowledge and belief, a true and accurate translation into  
FRENCH of the attached document(s) relating to:

#### DECLARATION FOR PATENT APPLICATION

written in ENGLISH

NEWTYPE COMMUNICATIONS, INC.

Sworn to and subscribed before me  
this 2nd day of June, 2005

NOTARY PUBLIC

MARJORIE JIMENEZ  
Notary Public, State of New York  
Qualified in Queens County  
No. 01JI6027417  
Commission Expires July 6, 2007